HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:25231 OF 2007

Dated:28.11.2007

Between:

M/s. A.P. Met Engg Limited,
607, Street No.3, Tarnaka,
Secunderabad rep., by its
Senior Manager (Personnel &
Administration) K. Venkat Rao

..Petitioner

And

1. The Commercial Tax Officer,
   Tarnaka Circle, Hyderabad and others.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
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ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to quash the order dated 9.10.2007 passed by the 3rd respondent in CCT's Ref.No.LV(1)/543/2007 refusing to grant stay of collection of disputed tax and consequently, to restrain the 1st respondent from taking any coercive steps for collection of the disputed tax for the assessment year 1998-99 pending disposal of the appeal before the Sales Tax Appellate Tribunal, Hyderabad.

The main grievance of the petitioner is that an appeal has been preferred before the Sales Tax Appellate Tribunal against the revision orders passed by the 2nd respondent and the same is pending. The petitioner has also filed an application before the 3rd respondent seeking stay of recovery of disputed tax and the said application was rejected and pursuant to the rejection of stay, the 1st respondent issued notice demanding payment of entire disputed tax. Hence, the present writ petition.

Heard the learned Counsel appearing for the petitioner and the learned Government Pleader for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that

an appeal is pending before the Sales Tax Appellate Tribunal as to the assessment of disputed tax and in such a situation, rejection of stay application by the 3rd respondent and the demand of the 1st respondent for payment of disputed tax pending the appeal, pursuant to the rejection order, are illegal and unjustified and at this juncture, if the relief as to the stay of the proceedings is not entertained and if the recovery of the disputed tax in question is effected during the pendency of the appeal before the Sales Tax Appellate Tribunal, the very purpose of filing the said appeal, which is a statutory remedy that is available to the aggrieved party, would be defeated.

In the facts and circumstances of the case and in view of the pendency of the appeal before the Sales Tax Appellate Tribunal, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to imposition of certain conditions. Accordingly, there shall be stay of recovery of disputed tax till the disposal of the appeal pending before the Sales Tax Appellate Tribunal subject to the condition of the petitioner depositing 50% of the disputed tax within a period of six weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 28th November, 2007

Note:
Issue CC on Monday.
(BO)
Nn.

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(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

28/11/2007